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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

21 Cr. 92 (JPO) (BCM)

5 YURY MOSHA,

6 Defendant.

7 -----x

8 New York, N.Y.
9 October 31, 2022
12:00 p.m.

10 Before:

11 HON. BARBARA C. MOSES,

12 Magistrate Judge

13 APPEARANCES

14 DAMIAN WILLIAMS,

15 United States Attorney for the
Southern District of New York

16 BY: JONATHAN REBOLD

Assistant United States Attorney

17 VADIM GLOZMAN

18 Attorney for Defendant

19 ALSO PRESENT:

20 RUSSELL LANTIER, Special Agent FBI

KONSTANTIN GARNOV, Russian Interpreter

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1 (Case called)

2 MR. REBOLD: Good afternoon, Judge Moses. Jonathan
3 Rebold for the government. I'm joined at counsel table by
4 Special Agent Russell Lantier with the Federal Bureau of
5 Investigation.

6 MR. GLOZMAN: Good afternoon, your Honor. Vadim
7 Glozman on behalf of Yuri Mosha, who is present to my right,
8 with the assistance of the Russian-speaking interpreter.

9 THE COURT: Mr. Glozman, Mr. Mosha, please be seated.
10 Mr. Mosha, are you able to hear and understand counsel
11 and me through the interpreter?

12 THE DEFENDANT: Yes.

13 THE COURT: Thank you. Counsel, I understand we are
14 here for a change of plea. I am told that your client, having
15 previously pleaded not guilty, now wishes to enter a plea of
16 guilty to Count One of the indictment in this matter. Is that
17 your understanding?

18 MR. GLOZMAN: That is, your Honor.

19 THE COURT: The first thing we are going to need then
20 is the consent form for the magistrate judge. There it is.

21 Mr. Mosha, I am handing up a document entitled consent
22 to proceed before a United States Magistrate Judge on a felony
23 plea allocution. It looks like you have signed it today. Did
24 you sign this document today?

25 THE DEFENDANT: Yes.

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1 THE COURT: What this form says is that you know you
2 have a right to have your plea taken by a United States
3 District Judge, but you're agreeing to have your plea taken by
4 a United States Magistrate Judge, which is what I am.

5 As a magistrate judge, I have the authority to take
6 your plea with your consent and you have all of the same rights
7 as if you were before a district judge. If you are found
8 guilty, you will be sentenced by the district judge assigned to
9 your case.

10 Did you sign this consent form voluntarily?

11 THE DEFENDANT: Yes.

12 THE COURT: And before you signed it, did your
13 attorney explain it to you?

14 THE DEFENDANT: Yes.

15 THE COURT: Does your attorney speak Russian or did
16 that happen through an interpreter?

17 THE DEFENDANT: He speaks Russian.

18 THE COURT: Excellent. Do you wish to proceed with
19 your plea today before me?

20 THE DEFENDANT: Yes.

21 THE COURT: I will accept your consent.

22 So I'll now ask you, Mr. Mosha, directly. You heard
23 me ask your lawyer whether you wish to change your plea and
24 enter a plea of not guilty. Is that, in fact, what you wish to
25 do today?

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1 THE DEFENDANT: Yes.

2 THE COURT: Before deciding whether to accept a guilty
3 plea from you, I need to ask you certain questions. It's
4 important that you answer my questions honestly and completely.
5 The purpose of the questions is to make sure that you
6 understand your rights, to make sure that you're pleading
7 guilty of your own free will, and to make sure that you're
8 pleading guilty because you are guilty and not for some other
9 reason.

10 Do you understand what I'm saying?

11 THE DEFENDANT: Yes.

12 THE COURT: If you don't understand any question that
13 I ask you or if you simply want some time to consult with your
14 lawyer, please let me know and I will give you as much time as
15 you need because it is important that you understand every
16 question before you answer.

17 I will now ask the courtroom deputy to place the
18 defendant under oath.

19 (Defendant sworn)

20 THE DEPUTY CLERK: Please state your name for the
21 record.

22 THE DEFENDANT: Yuri Mosha.

23 THE COURT: Mr. Mosha, you are now under oath. What
24 that means, among other things, is that if you give an
25 intentionally false answer to any of my questions, you could be

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1 prosecuted for perjury.

2 How old are you, Mr. Mosha?

3 THE DEFENDANT: 46.

4 THE COURT: 46 years old. You need not rise for the
5 questions and the answers. You may remain seated.

6 Are you a citizen of the United States?

7 THE DEFENDANT: No.

8 THE COURT: What country are you a citizen of?

9 THE DEFENDANT: Russia.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: Completed college, economics.

12 THE COURT: You have a university degree?

13 THE DEFENDANT: Yes.

14 THE COURT: I take it you can read and write in
15 Russian without difficulty?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you now or have you recently been
18 under the care of a doctor, including a psychologist or a
19 psychiatrist for any reason?

20 THE DEFENDANT: Yes, and I'm still, but I'm good now.

21 THE COURT: What kind of doctor has been treating you?

22 THE DEFENDANT: Psychologist and a psychiatrist.

23 THE COURT: Did that doctor give you a psychological
24 diagnosis?

25 THE DEFENDANT: Yes.

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1 THE COURT: What diagnosis or what diagnoses did he
2 give or did she give?

3 THE DEFENDANT: Depression. I don't remember exactly
4 the medical term for that.

5 THE COURT: But you recall that the diagnosis was
6 something along the lines of depression?

7 THE DEFENDANT: Yes.

8 THE COURT: And are you taking medication for that
9 condition?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you remember the name of the
12 medication?

13 THE DEFENDANT: Seroquel. Lamictal -- I can look it
14 up later.

15 THE COURT: In English, I'm thinking Lamictal. That's
16 a common --

17 THE DEFENDANT: Something like that.

18 THE COURT: And that's a depression medication?

19 THE DEFENDANT: Yes.

20 THE COURT: Anything else?

21 THE DEFENDANT: No.

22 THE COURT: Do you have any condition that affects
23 your ability to see or to hear?

24 THE DEFENDANT: No.

25 THE COURT: Do you have any condition that affects

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1 your ability to think or to understand or to make judgments or
2 decisions on your own behalf?

3 THE DEFENDANT: No.

4 THE COURT: Does the medication that you've been
5 prescribed for depression interfere with your ability to think
6 or to understand or to make judgments and decisions on your own
7 behalf?

8 THE DEFENDANT: No.

9 THE COURT: In the last 24 hours, other than the
10 medication you already mentioned to me, have you taken any
11 drugs, medicine, or pills with or without a prescription?

12 THE DEFENDANT: No.

13 THE COURT: In the last 24 hours, have you consumed
14 any alcohol?

15 THE DEFENDANT: No.

16 THE COURT: Is your mind clear today?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand what is happening in
19 this proceeding?

20 THE DEFENDANT: Yes.

21 THE COURT: Does either counsel have any objection to
22 the defendant's competence to plead?

23 MR. REBOLD: The government has no objection.

24 MR. GLOZMAN: None, your Honor.

25 THE COURT: Thank you, counsel.

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1 Mr. Mosha, have you received a copy of the indictment
2 in your case?

3 THE DEFENDANT: Yes.

4 THE COURT: That's the document, the written document
5 containing the charges against you. Did you read it or did
6 someone read it to you in Russian?

7 THE DEFENDANT: My attorney read it to me and I read
8 it myself.

9 THE COURT: Was a copy translated into Russian for
10 you?

11 THE DEFENDANT: I translated it myself.

12 THE COURT: You have enough English to translate it
13 yourself?

14 THE DEFENDANT: Yes, I can read. I have difficulty
15 speaking.

16 THE COURT: Would you like me to read the indictment
17 to you today and have it translated by our interpreter here in
18 court?

19 THE DEFENDANT: No.

20 THE COURT: Do you understand what the indictment says
21 you did?

22 THE DEFENDANT: Yes.

23 THE COURT: And have you had time to talk with your
24 attorney about the charges and about how you wish to plead?

25 THE DEFENDANT: Yes.

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1 THE COURT: Has your attorney explained the
2 consequences of pleading guilty?

3 THE DEFENDANT: Yes.

4 THE COURT: What I'm going to do next is I'm going to
5 explain certain constitutional rights, which you have, but
6 which you will be giving up if you enter a guilty plea. So
7 please listen carefully to what I'm about to tell you. If you
8 don't understand something, you can stop me, and either I or
9 your attorney will explain the matter more fully.

10 Will you do that?

11 THE DEFENDANT: Yes.

12 THE COURT: Under the Constitution and laws of the
13 United States, you have a right to plead not guilty to all of
14 the charges against you.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: If you plead not guilty, you will be
18 entitled, under the Constitution and laws of the United States,
19 to a speedy and public trial by jury. At trial, you would be
20 presumed innocent. The government would be required to prove
21 you guilty beyond a reasonable doubt before you could be found
22 guilty. You could not be convicted unless a jury of 12 people
23 agreed unanimously that you were guilty beyond a reasonable
24 doubt.

25 Do you understand that?

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1 THE DEFENDANT: Yes.

2 THE COURT: If you decided to go to trial, you would
3 be entitled to an attorney at trial and, in fact, at every
4 stage of your case. If you could not afford one, an attorney
5 would be appointed to represent you at the government's
6 expense. Even if you retained private defense counsel, as I
7 understand you have -- you're retained, correct, counsel?

8 MR. GLOZMAN: Correct, your Honor.

9 THE COURT: Even if you started with your private
10 defense counsel but ran out of money, an attorney would be
11 appointed to represent you at that time. You would be entitled
12 to an attorney all the way through trial and not just for a
13 guilty plea. So your decision to plead guilty should not
14 depend on whether you can afford to hire a lawyer.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: During trial, the witnesses for the
18 prosecution would have to come to court and testify in your
19 presence where you could see them and hear them and your lawyer
20 could cross examine them. Your lawyer could also offer
21 evidence on your behalf and he would be able to use the court's
22 power, known as subpoena power, to compel witnesses to come to
23 court to testify, even if they did not want to be there.

24 Do you understand that?

25 THE DEFENDANT: Yes.

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1 THE COURT: At trial, you would have the right to
2 testify in your own defense if you wished to. You would also
3 have the right not to testify. If you chose not to testify,
4 that could not be used against you in any way. No inference or
5 suggestion of guilt would be permitted from the fact that you
6 did not testify.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: If you were convicted at trial, you would
10 have the right to appeal that verdict to a higher court.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: And, as I said before, you have the right
14 to plead not guilty. Even today, although you came to court
15 for the purpose of entering a guilty plea, you have the right
16 to change your mind, to persist in your guilty plea, and to
17 proceed toward trial, but if you do plead guilty and if the
18 Court accepts your plea, you will give up the right to a trial
19 and the rights that go with it that I just described to you.
20 If you plead guilty, there will not be any trial. All that
21 will remain to be done will be to impose a sentence upon you.
22 You and the government will have a chance to make certain
23 arguments as to what that sentence will be, but there won't be
24 any trial to determine whether you are guilty or not guilty of
25 the charge to which you have pled guilty.

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1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you also understand that the decision
4 as to the appropriate sentence in your case will be entirely up
5 to the sentencing judge – in your case, Judge Oetken – and that
6 he will be limited only by what the law requires?

7 THE DEFENDANT: Yes.

8 THE COURT: This means that even if you're surprised
9 or disappointed by your actual sentence, you will still be
10 bound by your guilty plea.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Finally, if you do plead guilty, you are
14 also giving up the right to remain silent. You are giving up
15 the right not to incriminate yourself. I will ask you
16 questions about what you actually did in order to satisfy
17 myself that you are, in fact, guilty. So, by pleading guilty,
18 you will be admitting what lawyers call your factual guilt as
19 well as your legal guilt.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Count One of the indictment charges you
23 with a conspiracy to defraud the United States and to commit
24 immigration fraud in violation of Title 18 of the United States
25 Code, Sections 371 and 1546.

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1 I'm going to ask Mr. Rebold, the Assistant United
2 States Attorney, to state the elements of that charge. The
3 elements are the things the government would have to prove to
4 convict you of that crime.

5 MR. REBOLD: Yes, your Honor. Just to forewarn you,
6 they're a little bit lengthier than normal just because there
7 is really three objects. The object to defraud the United
8 States, which, as your Honor said, is the conspiracy, which is
9 known as client conspiracy, and then there are two separate
10 paragraphs applicable under Title 18, United States Code,
11 1546(a) in two separate ways in which the defendant was alleged
12 to have committed immigration fraud or conspired to do so.

13 THE COURT: Go ahead.

14 MR. REBOLD: So, the relevant elements are as follows:

15 First, for any conspiracy under Title 18, United
16 States Code, Section 371, the government would need to
17 establish beyond a reasonable doubt that:

18 First, there was an agreement by the defendant and one
19 or more persons to combine efforts to achieve an illegal
20 purpose or to use illegal means to accomplish the illegal
21 purpose; and

22 Second, that at least one act was taken in furtherance
23 of the conspiracy.

24 Here, the elements for the first object, client
25 conspiracy, would require that the government specifically

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1 establish that the above described agreement was designed to
2 obstruct lawful government function by deceitful or dishonest
3 means.

4 The element for committing immigration fraud under
5 Title 18, United States Code, 1546(a) under the first paragraph
6 of that subsection, which is obtaining a document under
7 fraudulent pretenses, are as follows:

8 First, the defendant conspired to obtain a form I94,
9 which is a document proscribed by statute or regulation which
10 provides evidence of authorized stay in the United States as
11 alleged in the indictment;

12 Second, that the document in question was procured by
13 means of a false statement or fraud; and

14 Third, that the defendant knew that the document was
15 procured by a means of a false statement or procured by fraud.

16 Regarding the elements for the fourth paragraph of
17 Title 18, United States Code, 1546(a), which is swearing to
18 false statements on applications for asylum, the elements are
19 as follows:

20 First, the defendant made a false statement;

21 Second, the defendant acted with knowledge that the
22 statement was untrue;

23 Third, that the statement was material to the
24 activities or decisions of the United States Department of
25 Homeland Security or the Executive Office for Immigration

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1 Review of the United States Department of Justice;

2 Fourth, that the statement was made under penalty of
3 perjury; and

4 Fifth, that the statement was made on the application
5 required by immigration laws or regulations.

6 Finally, the government would need to prove venue by a
7 preponderance of the evidence.

8 THE COURT: Thank you, Mr. Rebold.

9 Mr. Mosha, I am now going to tell you the maximum
10 possible penalty for the crime to which you intend to plead
11 guilty.

12 The maximum means the most that could possibly be
13 imposed. It does not mean that this is what you will
14 necessarily receive, but, by pleading guilty, you are exposing
15 yourself to the possibility of receiving a punishment or a
16 combination of punishments up to the maximum that I'm about to
17 describe.

18 Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: The maximum term of imprisonment for the
21 crime charged in Count One is five years, five years in prison,
22 which could be followed by up to three years on supervised
23 release. If your sentence does include supervised release, you
24 will be subject to supervision by the probation department
25 after your release from prison. If you should violate any

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1 condition of that supervised release, the Court could revoke
2 the term of supervised release previously imposed and return
3 you to prison without giving you credit for time served on
4 post-release supervision.

5 In addition to these restrictions on your liberty, the
6 maximum possible punishment for the crime charged in Count One
7 includes financial penalties. Here, the maximum allowable fine
8 is \$250,000 or twice the profits of the criminal activity or
9 twice what someone other than yourself lost because of the
10 criminal activity, whichever is greater.

11 You also will be required to pay restitution to any
12 victims of the crime in an amount that the court sets pursuant
13 to 18, United States Code, Section 3663(a), and that obligation
14 to make restitution will be made a part of your probation, if
15 you get probation, or a condition of your supervised release if
16 your sentence includes supervised release.

17 In addition, by pleading guilty, you will admit to the
18 forfeiture allegations in the indictment, and you will agree to
19 forfeit a sum of money equal to \$9,600 in United States
20 currency pursuant to Title 18 of the United States Code,
21 Section 982(a)(6), which is an amount representing proceeds
22 traceable to the commission of the offense with which you are
23 charged.

24 Finally, I am required by law to tell you that there
25 is an additional special assessment of \$100, which is required

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1 to be imposed on each count of conviction.

2 I must also advise you that because you are not a
3 citizen of the United States, your guilty plea will likely have
4 adverse consequences for your ability to remain in or return to
5 the United States, including removal, deportation, denial of
6 citizenship, and denial of admission to the United States in
7 the future.

8 Do you understand that your removal or deportation may
9 be mandatory?

10 THE DEFENDANT: Yes.

11 THE COURT: If that does happen, you will still be
12 bound by your guilty plea. That is, you won't be able to
13 withdraw it, regardless of any advice you've received from your
14 counsel or others regarding the immigration consequences of
15 your plea.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Has anyone threatened you or coerced you
19 in any way to get you to plead guilty?

20 THE DEFENDANT: No.

21 THE COURT: I understand there's a written plea
22 agreement between you and the government.

23 Ms. Kay -- there it is.

24 It's contained in a letter, dated October the 26th,
25 addressed to your lawyer, Mr. Glozman.

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1 Looking at the signature page now, it looks like it
2 was signed by your lawyer and by yourself today.

3 Let me hold up that signature page so that you can see
4 it.

5 Did you sign this plea agreement today?

6 THE DEFENDANT: Yes.

7 THE COURT: Did you read it or was it read to you
8 before you signed it?

9 THE DEFENDANT: Yes.

10 THE COURT: Was it explained to you in Russian?

11 THE DEFENDANT: Yes.

12 THE COURT: Did you discuss it with your attorney
13 before you signed it?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand its terms?

16 THE DEFENDANT: Yes.

17 THE COURT: Has anyone promised you anything or
18 offered you anything other than what's written in the plea
19 agreement to get you to plead guilty?

20 THE DEFENDANT: No.

21 THE COURT: It looks like you and the government have
22 reached agreement regarding the appropriate calculation of your
23 sentence under a part of our law known as the sentencing
24 guidelines. I am looking at page 2 of your plea agreement and
25 I am seeing that you and the government have agreed that the

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1 appropriate guidelines sentencing range for you is 12 to 18
2 months' imprisonment, 12 to 18 months. In addition, you have
3 agreed that the appropriate monetary fine in this case is
4 \$5,500, up to \$55,000.

5 Do you understand that under this agreement, neither
6 you nor the government is allowed to argue to the sentencing
7 judge for a calculation which is different from the one I just
8 summarized?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you also understand that in this
11 agreement, you have limited your right to appeal in certain
12 respects from any sentence that may be imposed, specifically as
13 long as Judge Oetken sentences you to a prison term of no
14 longer than 15 months, any lawful sentence of supervised
15 release, and a fine no greater than \$55,000, you are giving up
16 your right to challenge your sentence, whether by direct
17 appeal, a writ of habeas corpus, or otherwise?

18 THE DEFENDANT: Yes.

19 MR. REBOLD: I'm sorry, your Honor. I think your
20 Honor may have inadvertently said that he can't appeal if the
21 sentence is more than 15 months. In fact, the plea agreement
22 contemplates that he can't appeal if the sentence is equal to
23 or less than 18 months.

24 THE COURT: You are correct. I did misstate the
25 sentencing range agreed to in your plea agreement is from 12

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1 months at the low end to 18 months at the high end, which
2 means, similarly, that the restrictions on your right to appeal
3 apply so long as you are sentenced to 18 months or less.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Thank you for that correction, Mr. Rebold.

7 MR. REBOLD: Your Honor, while we're at a pause,
8 Mr. Glozman pointed out to me just at the outset of this
9 proceeding that there's one ministerial error on page 2 of the
10 plea agreement, which I'm hoping we could just amend and
11 initial.

12 THE COURT: What's the problem?

13 MR. REBOLD: So this is an error on the government's
14 end. On page 2, it correctly lists the applicable fine range.
15 This is the very last sentence on page 2 of \$5,500 to \$55,000,
16 but it errantly says that's the range for guidelines level 14.
17 It should actually read guidelines level 13, which is the
18 stipulated guidelines range in this case.

19 THE COURT: I see the discrepancy. I do see the
20 figure of 13 for the agreed upon applicable guidelines range in
21 this case and what I assume is a typo down at the bottom of the
22 page. Let's pause for a moment and I will permit counsel to
23 make that change and initial it and I'll ask defense counsel
24 just to please make sure your client understands what is
25 happening. The defendant should initial, as well.

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1 The plea agreement is being handed back up to me with
2 that correction having been made at the bottom of page 2.

3 Mr. Mosha, do you understand why that correction was
4 made?

5 THE DEFENDANT: Yes. Yes, of course.

6 THE COURT: You understand that that was a
7 typographical error at the bottom of page 2 where it says
8 guidelines level 14, it should have said guidelines level 13 to
9 be consistent with the calculation higher up on the page?

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you also understand that under the
13 terms of your plea agreement, with certain limited exceptions,
14 even if you later learn that the government withheld from your
15 counsel information that would have been helpful to you in
16 defending yourself at trial, you will not be able to complain
17 about that or withdraw your guilty plea on that basis?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that the terms of your
20 plea agreement, including the calculations relating to
21 sentencing, are not binding on the sentencing judge?

22 THE DEFENDANT: Yes.

23 THE COURT: Judge Oetken could reject those
24 calculations and could impose a more severe sentence than you
25 expect without permitting you to withdraw your plea of guilty.

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1 That's because the sentencing judge is required to make his own
2 independent calculation of the appropriate sentencing range
3 under the guidelines. He will also have the discretion to give
4 you a sentence below that range or above that range up to the
5 maximum sentence that I told you about earlier.

6 In addition to the guidelines and possible departures
7 from the guidelines, the sentencing judge will consider the
8 factors set forth at 18, United States Code, Section 3553(a).
9 In other words, the sentencing judge will pronounce whatever
10 sentence he believes is the appropriate sentence for you, even
11 if it's different from the range set forth in your plea
12 agreement.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: The Court will also consider a presentence
16 report. That report will be prepared by the probation
17 department in advance of your sentencing, you and the
18 government will have an opportunity to review that report and
19 challenge the facts reported by the probation officer if you
20 wish to do that.

21 Do you understand that there is no parole in the
22 federal system, meaning that if you are sentenced to prison,
23 you will not be released early on parole?

24 THE DEFENDANT: Yes.

25 THE COURT: Before I go on, let me ask both counsel,

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1 beginning with the government, are there any other provisions
2 in the plea agreement that you'd like me to go over with the
3 defendant?

4 MR. REBOLD: No, your Honor.

5 THE COURT: Defense counsel?

6 MR. GLOZMAN: No, your Honor.

7 MR. REBOLD: Actually, I'm sorry, your Honor, one
8 other thing. Your Honor cited the forfeiture amount of \$9,600.

9 THE COURT: I did.

10 MR. REBOLD: Just so that there is a record of it when
11 we send it up to the district court judge, the plea agreement
12 appends to it, which is marked Exhibit A, which is a consent
13 preliminary order of forfeiture in the amount of \$9,600.

14 THE COURT: I see that, but I see that's for the
15 district judge.

16 MR. REBOLD: Yes. The defendant has endorsed that
17 agreement today along with his attorney. We'll be sending that
18 up to the district court for its endorsement. So I want to
19 make clear on the record that that's actually the defendant's
20 signature and that he understands what it is that he signed
21 today so that the district court has what it needs when we ask
22 the district court to endorse it.

23 THE COURT: Mr. Mosha, we talked about the forfeiture
24 in the amount of \$9,600. Do you recall that?

25 THE DEFENDANT: Yes.

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1 THE COURT: And that will be imposed on you by means
2 of an order called a consent preliminary order of
3 forfeiture/money judgment. The district judge will sign that
4 order. It looks like you have already signed the order on the
5 last page to indicate your understanding and consent to the
6 entry of that order; is that correct?

7 THE DEFENDANT: Yes.

8 THE COURT: Thank you very much.

9 So I will ask you now the last question, for now.

10 Other than what's in the plea agreement itself,
11 including the forfeiture order, which is attached to it, have
12 any promises been made to you to influence you to plead guilty?

13 THE DEFENDANT: No.

14 THE COURT: Have any promises been made to you
15 concerning the actual sentence that you will get?

16 THE DEFENDANT: No.

17 THE COURT: You have been advised of the charges
18 against you, you have been advised of the possible penalties
19 you face, and you have been advised of the rights you are
20 giving up. Is it still your intention to plead guilty to Count
21 One of the indictment?

22 THE DEFENDANT: Yes.

23 THE COURT: Is your plea voluntary and made of your
24 own free will?

25 THE DEFENDANT: Yes.

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1 THE COURT: Now would you please rise.

2 Mr. Mosha, with respect to Count One, how do you
3 plead?

4 THE DEFENDANT: Guilty.

5 THE COURT: You may be seated.

6 I will now ask you to tell me in your own words, if
7 possible, what it is you did that makes you guilty of that
8 crime.

9 THE DEFENDANT: May I continue to be seated?

10 THE COURT: If you're using notes, that's fine, you
11 can go ahead and read from them. The interpreter may ask to
12 look at them afterwards to make sure that he gets it exactly
13 right, but I need to hear it.

14 THE INTERPRETER: The question was whether he needs to
15 stand up.

16 THE COURT: Sorry. I misunderstood.

17 You may remain seated.

18 THE DEFENDANT: On or about August of 2018 until
19 February of 2022, in Manhattan, in the State of New York, I
20 agreed with at least one person to assist with at least one
21 individual to obtain political asylum under false pretenses.
22 Sorry, actually February 2021.

23 THE COURT: So August of 2018 to February 2021?

24 THE DEFENDANT: Correct.

25 THE COURT: All right. Continue.

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1 THE DEFENDANT: In particular, on at least one
2 occasion, I advised a client to agree to an online blog and
3 express his opinions on his country, which do not reflect his
4 actual beliefs, and which was not the client's personal idea,
5 and it was done solely as the grounds to obtain political
6 asylum. I knew that those blogs would be used as evidence to
7 apply for asylum under the form I589, and I knew that it was
8 perjury. I personally helped to fill out the form I589 and to
9 submit it to the customs and immigration authorities.

10 THE COURT: Anything else?

11 THE DEFENDANT: That's it.

12 THE COURT: Did your attorney help prepare the
13 testimony that you just gave?

14 THE DEFENDANT: I drafted it myself, but discussed it
15 with my attorney.

16 THE COURT: Is everything that you just told me true?

17 THE DEFENDANT: Yes.

18 THE COURT: You said that you advised a client to
19 create an online blog that did not reflect the client's true
20 opinions about his home country for purposes of getting him
21 political asylum; correct?

22 THE DEFENDANT: Yes.

23 THE COURT: And you then said that you knew those
24 blogs would be used in an asylum application and that it
25 constituted perjury.

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1 THE DEFENDANT: Yes.

2 THE COURT: How did it constitute perjury if it was an
3 online blog? Those are not normally under oath.

4 THE DEFENDANT: I advised the clients to create this
5 blog and then, when we prepared the documents to submit for the
6 asylum, I signed the form.

7 THE COURT: And when you signed that form, what did
8 you represent on the form that was false?

9 THE DEFENDANT: That he was seeking to get political
10 asylum in the United States while, in fact, he was not or he
11 had not been persecuted in his home country.

12 THE COURT: So you knew the contents of an immigration
13 form were false?

14 THE DEFENDANT: Yes.

15 THE COURT: And you signed it under penalty of perjury
16 or the client signed it or both?

17 THE DEFENDANT: We both signed it.

18 THE COURT: And would you identify that form for me
19 again by number.

20 THE DEFENDANT: I589.

21 THE COURT: And at the time that you were engaging in
22 this conduct, did you know that it was wrong?

23 THE DEFENDANT: Yes.

24 THE COURT: And you committed these acts or some of
25 these acts in Manhattan?

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1 THE DEFENDANT: Yes.

2 THE COURT: Mr. Rebold, do you believe that that is
3 adequate as a factual predicate for the guilty plea?

4 If there are additional questions you'd like me to ask
5 the defendant, please let me know.

6 MR. REBOLD: Yes, your Honor. I think it's largely
7 there, just one or two items.

8 First, can you please just confirm with Mr. Mosha that
9 he understood that when submitting the form I589, the purpose
10 was, at least in part, to help obtain what's known as a form
11 I94, which is effectively paperwork issued by the government
12 that would allow the applicant to provide proof of authorized
13 legal stay in the United States.

14 THE COURT: I'll see if I can get there.

15 Mr. Mosha, we've been talking about the form I589 as
16 the form which contained false information under penalty of
17 perjury. Was the purpose of submitting that form to obtain a
18 form known as an I94 form?

19 THE DEFENDANT: Yes.

20 THE COURT: And did you understand that at the time?

21 THE DEFENDANT: Yes.

22 THE COURT: Anything further, Mr. Rebold?

23 MR. REBOLD: Just to dot our I's.

24 THE COURT: That's a pun, right?

25 MR. REBOLD: What's that?

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1 THE COURT: Dot our I's?

2 MR. REBOLD: I missed the question, your Honor.

3 THE COURT: Were you making a pun, unintentionally?

4 MR. REBOLD: Not intentional. I'm not that smart,
5 your Honor.

6 But in advising his clients, Mr. Mosha allocuted that
7 he advised one or more clients to provide their opinions. It
8 wasn't, in fact, the case that he advised those clients to
9 generate a blog that was critical of their home country as a
10 basis to argue that it would be unsafe for them to return to
11 their home country.

12 THE COURT: Mr. Mosha, you said that at least on one
13 occasion, you advised a client to create an online blog giving
14 false opinions about their home country; correct?

15 THE DEFENDANT: Yes.

16 THE COURT: And the opinions that were expressed in
17 the blog, were they critical of the home country?

18 THE DEFENDANT: Yes.

19 THE COURT: But the client didn't really feel that
20 way, is that what you're saying?

21 THE DEFENDANT: The client wanted to get that I94
22 form, he didn't care about the opinion.

23 THE COURT: Mr. Rebold.

24 MR. REBOLD: I think that's accurate. Maybe Mr. Mosha
25 can confirm this. I think the idea was the person was not

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1 initially predisposed to create a blog and Mr. Mosha advised.

2 THE COURT: I'll go over that again.

3 The blog was your idea, not the client's idea;
4 correct?

5 THE DEFENDANT: That was my idea.

6 THE COURT: Because you thought it would help him get
7 asylum?

8 THE DEFENDANT: Yes.

9 MR. REBOLD: And then, finally, and I believe it
10 relates to the specific application that Mr. Mosha is
11 referring, the application indicated that the applicant created
12 their own blog when, in fact -- made their own blog when, in
13 fact, it was created and posted by an individual that Mr. Mosha
14 introduced to the applicant. So if he can just please confirm
15 he understands the person didn't even actually make their own
16 blog, that it was someone else who did it.

17 THE COURT: In addition to putting the blog into this
18 client's head, did you also arrange for someone else to create
19 it and post it?

20 THE DEFENDANT: Yes, the prosecution is correct.

21 THE COURT: Could you say that in your own words,
22 please.

23 THE DEFENDANT: Yes, I advised that client to create
24 the blog and I also introduced the client to Moshabina (ph.)
25 who helped the client to making that blog.

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1 THE COURT: And am I safe in assuming that your role
2 and this third party's role were not disclosed on the
3 immigration forms?

4 THE DEFENDANT: I'm sorry. I did not understand the
5 question.

6 THE COURT: The forms that you helped the client fill
7 out, did they honestly disclose that it was your idea?

8 THE DEFENDANT: No. No.

9 THE COURT: And the forms that you filled out, did
10 they honestly disclose that this third person, introduced by
11 you, was the one who set up and maintained the blog?

12 THE DEFENDANT: No.

13 THE COURT: Thank you. You good, Mr. Rebold?

14 MR. REBOLD: I am. Thank you, your Honor.

15 THE COURT: The government would like to make a
16 proffer, yes or no?

17 MR. REBOLD: Sure, your Honor.

18 If Mr. Mosha proceeded to trial, the categories of
19 evidence against him would include, among other things,
20 testimony from witnesses, including law enforcement officers,
21 as well as government confidential sources, recordings of
22 meetings and conversations, including ones where Mr. Mosha and
23 others who were his coconspirators who were participants.
24 Several of those meetings occurred in Manhattan. They included
25 incriminating emails and text messages, fraudulent form I589

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1 asylum applications, and related documents and blog posts,
2 among other things.

3 THE COURT: Thank you, Mr. Rebold.

4 Mr. Mosha, on the basis of your responses to my
5 questions and my observation of your demeanor, I find that you
6 are competent to enter a guilty plea. I am also satisfied that
7 you understand your rights, including your right to go to trial
8 and that you are aware of the consequences of your plea,
9 including the sentence that may be imposed and the immigration
10 consequences. I also conclude that you are voluntarily
11 pleading guilty and that you have admitted that you are guilty
12 as charged in Count One. For these reasons, I will recommend
13 that the district judge accept your plea.

14 I will ask the government to order a copy of the
15 transcript of today's proceeding to submit to Judge Oetken
16 together with any additional paperwork that he needs to act on
17 the recommendation.

18 Has he set a sentencing date?

19 MR. REBOLD: He has, your Honor. It's March 1st of
20 2023 at 2:30 p.m.

21 THE COURT: So unless the district judge changes that
22 date, you have a date to be sentenced on March the 1st, 2023,
23 at 2:30 in the afternoon.

24 I will direct the presentence report to be prepared.

25 Can you deliver the case summary for purposes of that

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1 report to probation within 14 days?

2 MR. REBOLD: Yes, your Honor.

3 THE COURT: And counsel, can you be available for
4 interview with your client by probation within 14 days?

5 MR. GLOZMAN: I'm starting a jury trial on Thursday,
6 so I don't think I can do it in the 14 days.

7 THE COURT: How long is your jury trial going to last?

8 MR. GLOZMAN: About a week and I have another
9 week-long one starting November 16th.

10 THE COURT: How much time do you want me to give,
11 Mr. Rebold? There is six months until sentencing.

12 MR. REBOLD: Whatever counsel thinks is reasonable and
13 required. If probation needs a little more time to prepare the
14 report, of course we wouldn't object.

15 MR. GLOZMAN: Can I get 45 days to get it done?

16 THE COURT: What's 45 days from today, Ms. Kay?

17 THE DEPUTY CLERK: December 15th.

18 THE COURT: It would be December 15th.

19 MR. GLOZMAN: I appreciate the --

20 THE COURT: Don't come back and ask for more, please.

21 MR. GLOZMAN: I will not.

22 THE COURT: December 15th for you and your client to
23 be interviewed by probation. Don't let it go until the
24 Christmas holidays because then it will never get done.

25 MR. GLOZMAN: Understood.

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1 THE COURT: The defendant is on conditions of release,
2 yes?

3 MR. GLOZMAN: Yes.

4 THE COURT: Are we continuing those conditions?

5 MR. REBOLD: Yes, your Honor, with the Court's
6 permission, of course.

7 THE COURT: You have the Court's permission.

8 Mr. Mosha, you will remain free on bail pending your
9 sentencing. All of the conditions which apply to you up until
10 now will continue to apply. A violation of those conditions,
11 as I think you know, I hope you know, would have very serious
12 consequences, including revocation of bail and prosecution for
13 bail jumping.

14 In addition, if you were to commit a new crime while
15 you are released on bail, that would likely lead to a more
16 severe punishment for the new crime than you would otherwise
17 get. Of course, if you were to commit a new crime now or
18 violate your plea agreement with the government in any way, you
19 would be subject to a revocation by the government of that plea
20 agreement with all of the consequences described in the
21 agreement.

22 Do you understand me?

23 THE DEFENDANT: Yes, I understand it.

24 THE COURT: Anything further from the government?

25 MR. REBOLD: No, your Honor.

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1 THE COURT: From the defense?

2 MR. GLOZMAN: No, your Honor.

3 THE COURT: Thank you, gentlemen. We'll be adjourned.

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